

Remarks:

Responsive to the Official Action mailed October 20, 2006, Applicant respectfully requests reconsideration, reexamination and allowance of claims 1, 3-7 and 10-12 in view of the following remarks.

Applicant submits that every effort has been made to bring the present application into condition for allowance.

The Examiner has withdrawn the previous rejections and now rejects claims 1 and 3-12 under 35 U.S.C. §102(a) as anticipated by Nishizawa, U.S. Patent No. 6,551,671. The Examiner characterizes Nishizawa as disclosing an in mold label comprising a base layer and a printed matter provide on the base layer. The Examiner states that the base layer comprises a core layer, a surface or front layer on the printing side of the base layer, and a back layer on the side opposite the surface layer.

The Examiner analogizes the core layer as equivalent to the claimed substrate and states that even though the surface layer is part of the base layer, it is a layer between the core layer and the printed matter.

Applicant respectfully traverses this rejection. Applicant has amended claim 1 (and has cancelled claims 8 and 9), to more clearly and distinctly define the invention as directed to a non-overcoated in-mold label composition. The label includes a thermoplastic microporous sheet substrate having first and second faces.

A first down coat is applied to the substrate. The first down coat is formed from a film-forming polymer that is applied on the first face of the microporous sheet substrate. The first down coat formulated from one or more of an acrylic polymer, a styrene-acrylic copolymer an aliphatic polyurethane, a polyester resin, and a fluoropolymer.

A graphic is printed on the first down coat of film-forming polymer.

Applicant submits that Nishizawa does not anticipate the claimed invention in that it fails to disclose each and every one of the claimed elements. For example, while the Examiner assumes that the Nishizawa surface layer is applied to the substrate, this is not necessarily so. Nothing in Nishizawa specifically discloses this structure.

Nor does Nishizawa specifically disclose the claimed first downcoat materials. Rather, Nishizawa calls out for a front layer of a uni-axially stretched film of a resin composition. The resin composition is identified as fine inorganic particles (35 to 65 weight percent), high density polyethylene (0 to 10 weight percent) and polypropylene resin (55 to 35 weight percent). See, Nishizawa, col. 3, lines 28-32. Nishizawa also calls out for a back layer, which is missing from the claimed invention.

In conclusion, Applicant submits that Nishizawa fails to disclose each and every element of the claimed invention, the rejection under 35 U.S.C. §102(a) is improper and should be withdrawn.

Accordingly, Applicant submits that the claims pending in the application, namely claims 1 and 3-7 and 10-12 (claims 13-20 being previously withdrawn) are allowable over the art of record and respectfully and earnestly solicits early indication of same.

Applicant believes that no fee is due in connection with the present Amendment E. The Commissioner is, however, authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2035.

Should the Examiner believe that a telephone interview would expedite prosecution and allowance of the present application, or address any outstanding formal issues, he is respectfully requested to contact the undersigned.

Respectfully submitted,

By 

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